

When Can We Leave?

Understanding the Moral Requirements for Justifiable Secession

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Introduction

Look at a map and you will see that the world is divided into states. Using a basic definition, a state is a governing entity that has a monopoly on the use of coercion to make laws in a specific area. States are defined by territories or a set of boundaries that specify where the jurisdiction of a state begins and ends. While the common perception of borders is that they are static, in reality, they are quite fluid. Compare a map of the world in 1950 to a map of the world today. You will see that new states were created, and existing ones have either lost or gained territory. With the fluidity of borders, it is difficult to determine what norms and principles should guide the international community when dealing with disputes. To understand the justification of norms, it is imperative to answer the basic question: Why can the borders of states change? Political philosophers have sought to answer this question, justifying the authority of the state in ways ranging from a divine right to the social contract. While much discussion exists on the topic of territorial justice, there remain many issues to be solved.

One way that borders change is through secession, typically to create a new, separate state. Although common enough in history, it poses a significant problem to political philosophy. If individual citizens are obligated to obey and support their government in exchange for protection, then why would they be permitted to violate this agreement? Some prominent philosophers, including Allen Buchanan, David Miller, and Margaret Moore, have sought to answer this question, and we will explore their efforts in more detail shortly. I will argue that their theories of secession are insufficient to determine when secession is morally just. To rectify this, I will propose a new understanding of secession that better accounts for the interests of both the group wishing to secede and the potential rump state. Through a philosophical lens, I will answer the question: If and when is secession morally justifiable?

This paper will be divided into five sections. Section one will define key terms through a founding myth. Section two will describe three prominent theories of secession. Section three will describe the primary issues with these three theories of secession. Section four will lay out and support my proposed principle of secession. Section five I will use modern examples of secession to illustrate the superiority of my proposed principle of secession. Ultimately, I will argue for what I call *The Secession Principle*: Secession is justified if and only if the current government agrees to cede their claims to the territory that would secede.

I. A Founding Myth

Before we talk about the breaking of states, we should consider their constitution, and specifically the meanings and distinctions between government, state, territory, and individual rights. I will use a fictional story to explain these concepts. While it is not historically accurate, the story will be a convenient way to illustrate the necessary terms and definitions.

Imagine Diomedia, a remote island in the Pacific Ocean, where no outside civilization has ever been. The island has sufficient resources to support a small population. On Diomedia, there are two isolated groups of ten people, one on the east side of the island and one on the west. We can imagine the people in a Hobbesian state of nature, in complete freedom. Both the west and east side of the island have moderately scarce resources, enough to live, but not so sufficient that the population has no conflicts. Each individual on the island exercises their liberties, which express their freedom and autonomy. Every person can interact with the objects on the island of Diomedia. They can use the water to survive, collect wood to build shelter, and hunt, gather, or cultivate food for sustenance. Barring physical limitations, nothing is preventing any individual from interacting with their surroundings and exercising their liberty concerning these goods.

As individuals pursue their lives, conflict inevitably occurs when two people choose to utilize the same resources, whether it be trying to eat the same animal, drink the last coconut, or farm the same land. There are two options to resolve the conflict: coercion or agreement (or as Hobbes calls them, “covenants”). Coercion occurs when a conflict becomes physical. Agreement is when the individuals resolve the conflict through recognized agreements. It is important to note that in this analysis, the term “recognize” is not rooted in fairness. Instead, it relates to belief from both sides that an agreement is in force.

Initially, the individuals on the West side of the island attempt to use coercion, fighting with their fists to capture and protect the goods they have gathered. In a state of coercion, either a strong minority or a larger majority gains the lion's share of the goods. Still, the constant conflict and unstable division of goods mean many in the society are harmed, and everyone, as Hobbes famously explained, lives in a state of risk and fear.¹ Even the strongest do not benefit as they can be defeated by a group of weaker members. Therefore, it is in everyone's interest to enter into agreements. The individuals who come into conflict over the use of a resource negotiate a division of goods that is agreeable to each side. Although the division of goods is not necessarily equal or fair, all members of society benefit more in a state of covenant rather than coercion. Through agreements, property rights are established, as individuals define which resources and land a given individual can exercise their liberties over. Property rights exist when individuals agree to recognize each other's liberty over themselves and their defined resources and land.

Now, we can also imagine that the people on the east side of the island are going through the same process. Each side has established property rights through covenant, creating a series

¹ Thomas Hobbes, *Leviathan: With Selected Variants from the Latin Edition of 1668* (Indianapolis: Hackett Pub. Co, 1994), pp. 106 - 110.

of agreements to recognize each other's resources and land. Still, over time, each member of the society realizes that the covenants are unstable, as there can always be a reversion to coercion by a member to get more land or resources.² Therefore, the individuals on both sides of the island need a government to enforce and regulate property rights.

The government regulates and defends covenants. It formalizes property rights, acting as a third party to ensure that covenants are recognized by both parties and enforced. Moreover, it can establish laws and regulations that create processes for defining property and developing other rights that society sees as imperative. The government can also claim and secure the land, air, water, and other resources that are not currently unowned as public areas, available to all members of society. The boundaries of the established property and public areas act as the limits of the area over which the government has authority. Therefore, the government holds domain over the people, their property, and the public area it lays claim to.

Although the government maintains the right to govern a particular group of people, the limits to its power are ultimately a function of what the people who created the regime have recognized. The effectiveness of government is rooted in the acquiescence of individuals; however, a legitimate and moral government requires the recognition of legitimacy and conformity to the laws by individuals under its rule. Since the government is a function of the individuals who recognize and conform to it, then it must be subservient to their will and can be changed or removed if the people wish.³ Thus, while both sides of the island conclude they need a government, the form that this takes is entirely dependent on what the people recognize.

² It is important to note here that reversion to coercion is not inevitable. There will be many covenants that can stand despite there being an incentive to revert to coercion. Still, over time there is a high likelihood that some members will resort to gain a more favorable division of goods.

³ There is an obvious reply to this argument, which is in many authoritarian governments, sovereignty might not rest with the people. Instead, it might come from divine right or ideological justifications. Still, power can be maintained only through force or conformity. For example, in a monarchy maintained by divine right, the legitimacy of the monarch only holds if the broader populous follows the religion that provides that legitimacy. If

On the west side of the island, the group of individuals decides to elect a leader for 1 year out of the 10 individuals. Moreover, they confirm their right to enter into covenants and ensure that whoever enforces them must respect these rights. In creating the government, the individuals sacrifice a level of their liberty, agreeing to unite behind the leader if there is a need to defend the people, and hand over the means required to exercise the government's authority.

On the east side of the island, the covenants continue to break down. The strongest individuals continue to break their covenants, taking the lion's share of the resources. Therefore, the weaker members of society realize they need protection from the stronger members, and determine there must be one strong leader to defend their covenants. They choose the strongest member of society and endow them with absolute power for life in exchange for enforcing and arbitrating their covenants. They agree to pay part of their resources to the strongest leader and fight as a group when it is necessary to defend the entire government from threats. While these governments are different types, the point of this discussion is not what government is more legitimate, just to say there is a government that exercises authority over the nation.

Now our mythic world reaches a level of stasis, for as long as the people recognize their governments as legitimate, there is stability. If new claims to property arise, then the governments arbitrate and enforce the new covenant. Even if the people on the west or east side of Diomedea had to move to a different area of the island, as long as it is uninhabited, new covenants could be made and then enforced by the government of each side of the island.⁴ As the people of both societies move inland the west and the east side groups meet each other. And

the people refuse to recognize a government as legitimate and will not pay taxes or abide by laws, then it has to have sufficient force. But, even the use of force requires recognition and conformity from the soldiers and nobles engaging in the use of force. Therefore, the government operates as legitimate because people see it as legitimate, or they fear the force used. Either way, it relies on the people's state of mind as one of conformity and recognition.

⁴ This adds an important distinction that the government is tied to the people under its rule, not necessarily to the land it encompasses.

at the point of their meeting lies a grove of orange trees. Unsurprisingly, both groups have individuals interested in making covenants to claim rights over the grove. This situation is analogous to the problem of resolving conflicts between individuals in a community, but in this case, it is a dispute between different governments.

Similar to the conflict that originally gave rise to property rights, it is not clear which covenant is legitimate since both are exercising their liberties over the resources of Diomedea. Without legitimacy, individuals must call in their respective governments to defend their covenants. This transfer of the main agent in the conflict changes the nature of the quarrel, from one of the individuals vying to exercise their liberty over resources and one between governments hoping to govern an area unencumbered.

As with individuals, the governments of the east and west side have two courses for resolving this conflict: coercion or covenant. The government may raise an army and use coercion to enforce their citizens' claims or even to conquer the other community. While seeming like a straightforward solution, in reality, coercion creates a host of problems. Particularly, the fact that unless one government is destroyed or relinquishes its claim to the territory, a war can continue for years. This creates a constant flux in these territories that constricts the people from utilizing the territory being fought over. There can be no clear delineation of what covenants exist as they are constantly in intergovernmental conflict.

Alternatively, covenants could be created between the governments. The governments of the east and west could decide to merge into one unified government that would arbitrate the disputes over covenants. Another solution is for the governments to divide the island's resources, land, air, and water into two pieces of territory. One part would be under the authority of the government on the east side and the other side for the west side.

Recognizing the damage of conflict, let us imagine that the two sides of Diomedia see covenant as the most natural solution. The intergovernmental covenant is created between the east and west side on behalf of their respective groups, determining a set of boundaries defining which government regulates an area and its resources. The area that the negotiations assign is not only regarding the contested grove but the island as a whole. The agreement between the eastern and western governments is crafted partly on the strength and position of the governments. Since the west side is more willing to fight a war, two-thirds of the island is given as the west's territory, and one-third is the east's area to govern. Moreover, they decide to name the area governed by the west as the State of Westland and the eastern territory as the state of Eastland.

Despite this covenant following coercion, it must be an agreement entered into by the legitimate governments who receive recognition of legitimacy from the populace. Once the agreement is established, all covenants within the territory are defended, arbitrated, and regulated, by the government within that boundary. If an individual from the west side wanted to create a covenant in the east side's territory, then they must abide by the rules and regulations of the east side's government.

The intergovernmental covenant creates two new institutions and concepts. First, it creates the concept of territory. Territory defines the domains of governments in which regulations, defense, and arbitration are permitted to a single sovereign entity. Territory is not rooted in the people who live in it, but instead by the land, water, and air within the borders agreed to on the map.⁵ Territorial rights are the legitimate ability to govern a piece of territory. Before encountering another government, there was no reason for territorial boundaries to exist.

⁵ Property can be possessed by an individual in multiple states. When this occurs, the property is subject to the jurisdiction of the territory it is within.

There is simply no need to define what area of the island is controlled by a specific government because there is no potential conflicting claim to govern that territory. That changes when the east and west sides meet and conflict arises. Territory only becomes relevant when an intergovernmental-covenant is created to clarify the governance of current and future covenants.

Second, the intergovernmental covenant creates the concept of the state. The east and west governments need a system that further legitimizes their possession of territorial rights to reduce the likelihood of reversion to conflict. They do this by creating the state. The state is a territorially bounded vessel of legitimacy that is granted rights over a specific piece of territory. Territory in turn combines all the land allotted in the agreement, which includes the property of citizens, public land, as well as air, water, and other resources. The legitimate government of the people living within the state has the right to exert the territorial rights endowed by the original covenant. The state exists only when there are other governments or groups contesting possession and utilization of territory. Therefore, the state exists only in the presence of other states. The state acts as a durable institution because it is bound to territory instead of people. Even if successive governments are made up of a different population than those who originally made the borders, they must abide by the boundaries of the state unless the legitimate government agrees to a change in the boundary. The result of the agreement between the east and west is that the island of Diomedea is now divided into two states with clearly defined borders aimed at preventing conflicts in the exercise of each state's territorial rights.

Now we can see that there are two different entities: the state and the government. While the state is durable, rooted in the territory, and lines are drawn on a map, the government is flexible, finding its power in the people who live within the territory. Distinguishing the two

concepts furthers our understanding of both the importance and severity of changing the institutions. Changing a government is common; changing a state is not.

Ultimately, by telling this story, I aim is to broadly define or characterize and to distinguish some central concepts: property, government, state, and territory. Of course, it gets more complicated, especially with territory. Territory, in our story, is based on an agreement to divide jurisdiction over land, air, water, and resources of a specific area. Territory is thus made up of all property and public lands, used by all or no one. Thus, it is not confined to the citizens of a state who are using the property, but covers whatever the two states agree to provide jurisdiction over.

To complete our fictional story, let us now consider the idea of secession. To do this, we will focus on the state of Westland. Over the next 100 years, the citizens of Westland live in peace. Due to migration, immigration from Eastland, and economic specialization, however, the people of Westland have grown and changed into a diverse society, with cities, towns, and rural farmland and three distinct identity groups based on their cultures and their economic occupancy. The three cultures are the Tritons who live near the beach, the Agrarians who farm inland, and the Urbanites who are the tradespeople living in the city. Despite its history of peace and prosperity, groups in the state of Westland have become increasingly hostile. They speak different languages and have different customs. There is constant conflict for control over the government, each group seeking greater representation. Moreover, the Agrarians make up the majority of the population, followed by the Urbanites, and then the Tritons. Due to their large population, the Agrarians win these conflicts and dominate the government, making laws favorable to their culture and people. A recent law made by the government of Westland outlawed the Tritons from holding a festival celebrating their culture and forced many people to

move from their homes to open more land for farming. This was seen as an affront to the Tritons, who meet as a group to discuss ways to defend their culture and property. They see the government as being deeply oppressive, morally objectionable, and interfering with their basic liberties to make their lives unhappy and intolerable. Initially, it was believed they could appeal to the Agrarians, but the government currently in power disregarded all of their attempts to protect Tritonian culture. Following many debates, the Tritons realize that they have three options.

One proposal is to attempt to overthrow the government in a revolution. While it does not need to be violent, the Tritons could attempt to march on the government center, capture the elected leader, and institute a new government that is more equitable to them. Many favor this option because it still maintains the current state and does not require the establishment of new power. Moreover, this proposal's supporters argue the Urbanites would support them, and if they overthrew the government in a revolution the Tritons could still freely interact and make covenants with the Urbanites and Agrarians

Another option is pushing for autonomy, not seeking to establish a separate state but seeking an elected local government that can govern cultural practices and further protects property rights. Although it would create a new government, similar to revolution, this solution would keep the state intact and merely change the form of the government. Moreover, it would not require the new leader to have to receive recognition from the Agrarians, who would oppose a full-scale revolution.

The final option is secession, wherein the Tritons would create a new localized government, but also a state with its territory. If they secede, the Agrarians and Urbanites would have no ability to govern the territory of the Tritons, nor would they be able to tax or arbitrate

covenants in the new state. Effectively, seceding would provide absolute autonomy to the Tritons, but also deprive many other citizens of Westland access to the current and future benefits of being in union with the Tritons and vice versa. Moreover, would the State of Eastland recognize a Triton-controlled state as legitimate and respect its boundaries? These questions weighed on the Tritons, as they must decide not only what is the best course of action, but also what is morally justified. This question not only weighs on the Tritons but also those in the real world.

II. Leading Philosophical Arguments Regarding Secession

There are a variety of legal and philosophical approaches to the problem of justifying secession, but they can be boiled down to three basic categories: First, Just Cause (Remedial Right), which limits just secession to a last resort remediation for violations of rights; second, Ascriptivist (Nationalist) which permits every nation a right to a state; and finally, Plebiscitary (Self-Determination), which supports majority rule in determining boundaries.⁶

A. Buchanan

Allen Buchanan sparked the contemporary philosophical discussion on secession with his book, *Secession: The Morality of Political Divorce from Fort Sumter to Lithuania and Quebec*, and other articles where he developed a comprehensive theory of secession. Buchanan's theory, often referred to as Just-Cause or Remedial Right, argues that it is possible to defend a highly qualified unilateral right to secession, as a last resort for past injustices perpetrated on a specific group. To summarize his argument, secession is justified when the violations of a group's human

⁶ Allen Buchanan, 'Secession', in *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta, Fall 2017 (Metaphysics Research Lab, Stanford University, 2017).

This article provides a broad overview of the three theories, which can provide other philosophers who advocate for this theory.

rights or protections are so significant that they outweigh the rights of the potential rump state to the possession of that territory.

Buchanan began by arguing that having a moral right to secede implies both that it is acceptable for the possessor of the right to secede and that other states are obligated not to interfere.⁷ He determined that to fulfill these two conditions, the group wishing to secede from the existing state must have had its rights so thoroughly violated that the group's interests outweigh the rump state's interest in holding onto the territory populated by a group wishing to secede. Buchanan claims that instead of a basic moral right to secession, secession is justified by an aggregation of potential injustices and legitimate interests, such as liberty, escaping discriminatory redistribution, self-defense, and rectifying past injustices.⁸ These different injustices are then taken on a case-by-case basis to determine the moral efficacy of a claim to secession. The approach treats each potential interest or violation as having different weights. For example, if a government does not permit the celebration of a holiday in public, then this would not be significant enough to justify unilateral secession. On the other hand, if genocide is performed against a group, then this would be a compelling and just claim to secession. Moreover, it is vital that the actions taken by the group be done as a last resort, wherein there is no possible alternative solution. If another remedy exists, then Buchanan argues that should be taken instead.

Buchanan also considers the rights of those opposed to secession. These rights relate to the state and third parties, who have legitimate interests and rights to oppose secession. These

⁷ Allen E. Buchanan, *Secession: The Morality of Political Divorce from Fort Sumter to Lithuania and Quebec* (Boulder: Westview Press, 1991), pp. 27. There is an aggregation of 12 different criteria for the moral right to secede—liberty, furthering diversity, the limited goals for the political association, making entry easier, escaping discriminatory redistribution, enhancing efficiency, self-determination, and nationalism, preserving cultures, self-defense, rectifying past injustices, consent, and individual and group rights.

⁸ Buchanan, *Secession*, pp. 30 – 81,

rights include but are not limited to, self-defense, protecting majority rule, the threat of anarchy, and preventing wrongful taking.⁹ If fulfilled, these considerations would oppose the moral right to secession and support the maintenance of the current state of affairs. They lean heavily on the interests of defending the state, especially the portions that do not wish to secede. In doing so, it operates similar to a cost-benefit analysis, weighing the importance of the rights and interests of the would-be rump state and the group wishing to secede.

Another way to approach Buchanan's theory is from the part of Just War Theory that describes *Jus ad Bellum*. There must be a just cause for which unilateral secession is justified. Also, it must be proportional to the cause, so an insignificant slight cannot justify unilateral secession. Moreover, it must have a legitimate authority to exercise it. In Buchanan's case, this is done through the collective action of a defined group.¹⁰ Next, it must have a chance of success. Just as in war, the seceded state must be able to operate independently of the rump state to justify secession. Finally, secession must be the last resort, the only way to rectify the injustice occurring to the particular group.

When considering these two competing criteria, Buchanan requires a clear comprehension of the facts of the case. For example, when the thirteen North American colonies wanted to secede from British rule, the colonists had legitimate interests in rectifying past abuses by British soldiers and taxation without representation. On the other hand, the United Kingdom had a legitimate claim to the lands that they had colonized. First, Buchanan would need to weigh not only the violations or potential violations of rights but also the

⁹ Buchanan, *Secession*, pp. 30 - 81.

Buchanan discussed the following rights—protecting legitimate expectations, self-defense, protecting majority rule, minimization of strategic bargaining, soft paternalism, the threat of anarchy, preventing wrongful taking, and distributive justice.

¹⁰ Groups in Buchanan's eyes can recognize politically or not by the current government. He uses the example of Lithuania in the former U.S.S.R. as an example of a politically recognized group and the Kurds in Turkey and Iraq as one who are not.

legitimate interests of the current government and alternative solutions to secession. Second, Buchanan determines whether the colonies have any other recourse to solve their oppression. For example, do they have representation, or is there a place for negotiation? Finally, Buchanan would determine if in this specific case, are the thirteen colonies capable of taking actions to rectify the injustice that does not require secession. In doing so, Buchanan establishes a high bar for secession to be justified. Ultimately, he argues that secession is justified when the violations of a group's human rights, interests, or protections are so significant that they outweigh the rights of the potential rump state to the possession of that territory.

B. Miller

Another philosopher, David Miller, argues for an Ascriptivist (nationalist) theory of secession. Miller's basic principle says secession is justified when a national group with proper rights to a territory chooses to secede. In his writings, Miller ascribes territorial rights to the nation through the Principle of Nationality.¹¹ The principle of nationality states that national identities are a legitimate way of perceiving personal identity and that people have unique duties to others who share the same identity. Nations, therefore, have a strong claim to political self-determination.¹² He defines the nation as a group of people who have obligations to each other, recognize they are in the same group, and seek personal autonomy often through having a shared cultural, historical identity, and connection to a geographic area.¹³ Moreover, Miller argues that this concept of the nation can be employed to explain when secession is just or unjust. The principle of nationality implies that nations should be allowed to express their self-determination if they wish, provided their actions are not detrimental or unjust. More specifically, secession is

¹¹ David Miller, *On Nationality*, (Oxford University Press, 1997), pp. 1.

¹² Miller, *On Nationality*, pp. 1.

¹³ David Miller, 'Secession and the Principle of Nationality', in *National Self-Determination and Secession*, ed. Margaret Moore (Oxford University Press, 1998), 65.

justified by a nation seeking better governance if they have a separate identity from the broader populace and can verify historically their claims to the territory they wish to take.¹⁴ For example, if we return to Diomedia, Miller would argue the Tritonians, as a distinct nation, have the right to enact laws and determine their government in the area of Westland they occupy, as long as they do not oppress any non-Tritonians in their land.

Miller argues that to apply the principle of Nationality, two constraining criteria are necessary. First, the group wishing the secede must have a distinct national identity, wherein individuals do not see themselves as part of both the nation wishing to secede and the broader nation.¹⁵ This first criterion ensures that a group cannot simply claim secession based on nationality when they are not uniquely independent of the broader nation in the state. The state and nation differ as the state acts as an empty institution that invokes legitimacy upon a government. It is empty and can be occupied by any group or collection of individuals who live on in a territory. On the other hand, the nation goes beyond politics: it is a historical and cultural connection between individuals. They perceive themselves as a group and have ties to the land they occupy as a collective. Second, the nation wishing to secede must have a proper claim to the land they wish to take, meaning they must have a historical tie to the land.¹⁶ By adding this criterion, Miller ensures that groups not only have to perceive themselves as a nation but also have a legitimate claim to occupy the territory they wish to take. Thus, a migrant group could not move into a benign state and then immediately secede, claiming national self-determination. These two qualifications ensure claims to secession are limited to legitimate nations with claims to the land they wish to make into their new state.

¹⁴ Miller, 'Secession and the Principle of Nationality,' pp. 69.

¹⁵ Miller, 'Secession and the Principle of Nationality,' pp. 69.

¹⁶ Miller, 'Secession and the Principle of Nationality,' pp. 69.

Furthermore, if a nation fulfills these two criteria, Miller further qualifies his support for secession by accounting for political realities, such as the interests of potential members of the rump state who live in the seceding state. Here he calls for a case-by-case analysis that might include reconciliation or population exchanges to avoid violence or persecution.¹⁷ Moreover, he claims the importance of ensuring secession will not collapse the rump state. Similar to Buchanan, Miller insists on careful approaches to secession that avoid violence and instability.

Miller's Ascriptivist theory differs from Buchanan's in a few ways. First, it recognizes self-determination as a legitimate reason for secession. If a distinct nation collectively determines they wish to secede, then that justifies the secession. Buchanan, on the other hand, sees secession only as a last resort justified by a government's unjust actions. This in turn makes Miller's argument more lenient to secession. While he sets high standards for being considered a nation, injustice doesn't need to be performed against the group to warrant secession. Second, Miller defines a group in specific terms as a nation. Unlike Buchanan, Miller perceives the legitimate unit of self-determination as a distinct nation, meaning that the group that can exercise the right to secede must be a distinct nation as described above. Buchanan is more lenient, not clearly defining a group outside of common political interest.

Still, the two writers have some similarities. Miller does not permit secession that intends to or results in the oppression of a minority group. Similar to Buchanan, Miller does emphasize justice as the goal of states, and secession that might result in serious oppression or violence against another group cannot be justified. Furthermore, Miller and Buchanan both emphasize the risk of subjectivity when analyzing claims to secession. They approach their analysis on a case-by-case basis, determining the weight and extent to which a group or nation fits the criteria for

¹⁷ Miller, 'Secession and the Principle of Nationality,' pp. 72 - 75.

secession. The two philosophers avoid absolute principles, attempting to qualify their approaches to avoid too lenient a standard for secession.

C. Moore

Finally, the philosopher Margaret Moore defends a different, Plebiscitary (self-determination) theory of secession. Moore's principle states that secession is justified as an act of self-determination by a united group with territorial rights. In her recent book, *A Political Theory of Territory*, Moore outlines a theory of territorial justice and an implicit theory of secession.¹⁸ Moore begins her argument by defining two types of rights: residency and occupancy. Residency rights are the rights of individuals to live on a piece of land that they intend to use to achieve their life projects. Occupancy rights are the rights held by a group of individuals holding residency rights to live on a piece of land as a community.¹⁹ Similar to residency rights, the group must intend to use the land to survive and achieve its goals. Specifically, the group and individuals must use the land for their entire lives, making expulsion from that land detrimental to their existence. From occupancy rights, a group, or as Moore termed, "people," can achieve territorial rights that are exercised through the creation of the state.

The key to the creation of a "people" is consent from the individuals who maintain residency rights.²⁰ They must agree to join the political unit of the "people" and cannot be coerced into participation. While in this group, they maintain the right to self-determination, capable of consenting to the government and group in which they belong. Thus, the state and the exercise of territorial rights is a function of mutual advantage in allowing individuals to further their survival on their lands rather than a cultural union. The group can seek a society that provides

¹⁸ Margaret Moore, *A Political Theory of Territory* (Oxford University Press, 2015), pp. 128 - 129.

¹⁹ Margaret Moore, 'Territorial Rights and Territorial Justice', in *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta, Summer 2020 (Metaphysics Research Lab, Stanford University, 2020).

²⁰ Moore, 'Territorial Rights and Territorial Justice'

the benefits, whether it is union with other "people" or through independence. Their government, which holds jurisdiction over the land the community occupies, comes from what the collective consents to.

Moore's theory of secession derives from her theory of territory. Moore argues that secession is a tricky question because, on one hand, she advocates for self-determination, but on the other hand, secession could be detrimental to the rump state and the other individuals who rely on it.²¹ Still, she wishes to respect a "people's" right to self-determination. They should be permitted to determine which state or government governs their territory. To solve this dilemma, Moore introduces a principle of reciprocity to govern the process and outcome of a justified secession.

As described above, much of Moore's conception of the "people" is based on interactions between individuals that lead to the development of a society and institutions. Through this development, the concept of reciprocity arises. Moore defines reciprocity as an engagement between two groups to interact for mutual benefit.²² For example, if you have a farmer and a sculptor, and the farmer gives the sculptor food and the sculptor gives the farmer art of similar value, then reciprocity is established. As the interactions occur repeatedly, and the individuals begin to rely on each other for their reciprocal actions, institutionalized reciprocity is established. Institutionalized reciprocity should be respected as an ongoing mutually beneficial obligation.

Moore extends institutionalized reciprocity to the interactions of different regions and "people." In a state, people living in different regions trade and interact to mutually benefit one another. If one mines iron ore, and the other smelts it into steel, then the regions are intertwined in institutionalized reciprocity. They have a series of obligations to each other created through

²¹ Moore, *A Political Theory of Territory*, pp. 128 - 129.

²² Moore, *A Political Theory of Territory*, pp. 130 - 134.

past interactions. But, if the region that mines the iron wishes to secede through, claiming a right to self-determination, a conflict is created. In Moore's conception of Territorial Justice, it would be unjust to break these reciprocal ties without cause. Still, the "people" have a right to self-determination.²³ Moore's solution is for the previous ties of reciprocity to be maintained. If the iron mining region wishes to secede for reasons other than injustice, then they are required to maintain these mutually beneficial relationships with the rump state.

Thus, the principle of reciprocity acts as a roadmap for a just secession. If a state is persecuting another group within its territory, then that group is not in a reciprocal relationship. If they decide to secede, then there is no obligation to maintain ties, and are thus allowed to leave.²⁴ The injustice committed that justifies breaking these obligations must be significant. Similar to Buchanan, it would need to be something along the lines of genocide or constant oppression. It cannot merely be a small slight.

On the other hand, if a group wishes to secede from a just state, then they are required to maintain their mutually beneficial ties with the rump state to prevent unjustly harming the people who do not secede. While it can be difficult to maintain the same economic or security ties, a seceded country in Moore's eyes should get as close as possible. For example, the iron mining region would need to continue to send its ore to the smelters under the same contracts as before the secession. Still, if the contracts were not feasible unless there was no border crossing, then Moore would permit the mining country to modify the contracts but still must ensure they are fulfilled. If they did not, then the people in the rump state would lose their livelihood and make it harder for the state to function. Even if there are modifications, Moore believes the principle of reciprocity should be maintained as well as possible.

²³ Moore, *A Political Theory of Territory*, pp. 130 - 134.

²⁴ Moore, *A Political Theory of Territory*, pp. 130 - 134.

Miller and Moore's theories are both similar and different. Moore and Miller differ on the issue of to whom they ascribe the right to self-determination. Moore believes the morally relevant group is defined by its political unity and common interest. Miller ascribes it to a culturally united group with historical ties to the land and a distinct common identity. For him, the nation is more than just a common political identity, it is a shared culturally and historically meaningful identity. The difference in their definitions means Moore has a lower threshold for a collective to be defined as a group.

While Miller and Moore differ in this respect, both believe secession can be justified by appealing to a principle of self-determination. If the majority of a group wishes to remake borders and create their government, then this can justify secession. Moreover, the historical ties of groups to the land are relevant in both theories. Moore posits a group must hold occupancy rights before holding territorial rights, which include the right to self-determination. Moreover, to be a nation ascribed the right to secede, they must prove historical and cultural ties to an area. A nation cannot merely take any physical space, it must as a collective have a tie to it.

These similarities stand in stark contrast to Buchanan, who believes only injustice can be the cause for secession, and only if the harm of injustice outweighs the harm that happens to the rump state. Still, all three philosophers are similar in that they give some account of the interests of the rump state. Buchanan limits the justification of secession by making the threshold for secession particularly high, Miller, by limiting the definition of a nation, and Moore through the principle of reciprocity. While they approach the issues differently, each theory recognizes that secession is a strong measure with long-ranging effects. Therefore, each theory takes great care to put caveats on the justification of secession and to avoid advocating excessive secession.

III. Analysis of Buchanan, Miller, and Moore: What's Missing?

Now, I will illustrate the shortcomings of each of the previous three theories. These theories are not exhaustive, but they represent past moral arguments for justifying secession. While each philosopher appeals to important moral and political values, three key topics are not fully accounted for: the distinction between states and governments, the difference between revolution and secession, and the harm caused by secession to the individuals in the rump state.

First, none of the theories we examined adequately account for the difference between the government and the state. As illustrated in the founding myth, legitimate government derives from a contract in society among its citizens to regulate and defend their covenants and their basic rights. This differs from the state, which derives from covenants between different governments. When two adjoining governments agree to define a border between them, they create the state as an institution that possesses territorial rights to the land. The state is a durable institution of legitimacy. That government then uses the authority derived from the state to enact laws, enforce borders, and so on. The people living there have a right to create a government, but they do not have the right to directly create a state. Therefore, a successful theory of secession should recognize this difference. Unfortunately, the three theories discussed above fail adequately to do this.

Both Moore and Miller fall victim to the false assumption that territorial rights are functions of self-determination. Moore's connection of territorial rights to the development of a politically unified group falsely ascribes territorial rights to the groups living in the area.²⁵ Since territorial rights and the boundaries of a state are created from the need to define borders with opposing groups, they are created through the acts of the government. The government

²⁵ Margaret Moore, *A Political Theory of Territory*, pp. 128 - 129.

negotiates the boundaries and establishes the state. The people cannot change what they did not create; only the entity that creates a boundary has the moral authority to change it. Therefore, only the government inhabiting the state's power can cede control over the territory.

Similarly, Miller argues that self-determination and territorial rights are possessed by the nation that legitimately occupies and is historically connected to a piece of land. Miller makes a compelling argument for a nation to live in an area that it has deep ties to. Still, this continues to treat the state and territorial rights as something more than an efficient division of jurisdictional authority.²⁶ Nations can, through their right to self-determination, seek to change their government, but not their borders.

Still, any nation or group could theoretically peacefully advocate for the secession of a specific piece of territory, but it cannot unilaterally secede. It must have the recognition from the government of the would-be rump state. Without recognition, there is a significant risk of members of the state having their land arbitrarily expropriated without having a say.

Buchanan does a better job at hinting at the difference between the government and state. As I explain later, he recognizes that there is a difference between overthrowing an unjust government and seceding from a state.²⁷ Still, he does not develop a clear principle to determine the difference between just action against the government and just secession. Therefore, while Buchanan does provide a good start, his theory does not go far enough in explicitly differentiating the government and the state.

Second, the justifications referred to by Buchanan, Miller, and Moore for secession are mostly justifications for revolution. As I described in the initial myth, there is a key difference between revolution and secession. Revolution, which is the overthrow of an existing

²⁶ David Miller, 'Secession and the Principle of Nationality', pp. 65.

²⁷ Allen E. Buchanan, *Secession*, pp. 30 - 81.

government, would be justified under similar circumstances to Buchanan's Just Cause theory of secession. If the government perpetrates serious injustices against the people, and if these injustices cannot be rectified in any other way, then those people are justified in overthrowing that government. From this, the question naturally arises: When should a mistreated group choose revolution or secession? In response, Buchanan argues that secession is a more extreme action than revolution since secession punishes both the existing government and the people as a collective.²⁸ Secession removes the territory belonging to the collective people. By removing this territory, secession denies the other citizens in the state access to the resources, free movement, and other privileges.²⁹ Revolution, on the other hand, is an act that can benefit the entire population by freeing them from an unjust government. It does not punish the members of the state who do not participate in the government; instead, it is supposedly freeing them from tyranny. By clarifying that secession is a more extreme action, Buchanan sets a higher bar for secession than the justification for revolution.

To illustrate this distinction, compare the French Revolution and the American Revolution. The French Revolution was a revolt against the government of Louis XVI and the broader social order it represented. The Third Estate felt it was being abused by an unfair system, and it attempted to change that situation through revolution. While much bloodshed and upheaval occurred, the French Revolution did not seek to take land from France, nor disinherit future generations from utilizing the wealth of the State. Instead, it changed the government of the country but not the fundamental boundaries of the state.

The American Revolution, however, was an act of secession, as the thirteen colonies sought total independence from the British state and the creation of a new state on its territory.

²⁸ Buchanan, *Secession*, pp. 152 – 162.

²⁹ Buchanan, *Secession*, pp. 30 - 81.

The colonists did not seek to overthrow the British parliament but sought instead to leave them completely behind. In creating a new state, the current and future British people lost their claims to exploit the wealth and resources of the United States. The two historical events reveal that Secession is a far more consequential change in terms of what resources and territory are controlled by the state, and therefore should reach a higher bar to justify its occurrence.

Still, Buchanan does not provide a clear enough mechanism for determining whether a cause justifies revolution, secession, or both. In his conclusion, Buchanan argues:

Among the types of state-perpetrated injustices that can justify secession are not only the violations of basic individual civil and political rights that orthodox liberal political philosophy recognizes as legitimate grounds for revolution but also the injustice of discriminatory redistribution, the state's exploitation of one group to benefit others.³⁰

The argument made above expands the potential sufficient conditions of secession to cover both of those violations of a group's rights. Therefore, it is unclear where to draw the line in which a group can secede or individuals being oppressed are justified in a revolution. Buchanan claims it should be made on a case-by-case basis, but I find this response unconvincing because individuals can perceive oppression differently. A group like the American colonists might perceive British taxation without representation as a truly horrendous act justifying secession, but the British, or a 3rd party like the Spanish, may see it as a less serious offense. Buchanan fails to rectify these potential differences in opinion, and when applying his theory, one cannot fully determine whether it is justifying secession or revolution.

Since Miller and Moore fail to distinguish between the government and the state, their arguments do not distinguish justifications for revolution from justifications for secession. A group of people, if they have been unjustly treated or feel they need autonomy, can rebel or force a revolution to change the government or seek autonomy. The right to self-determination

³⁰ Buchanan, *Secession*, pp. 152.

permits this but does not necessarily justify secession. An unjust government does not necessarily justify the extreme act of secession. It is imperative to distinguish secession as a morally just solution to cases when serious injustice has occurred. And in doing this, It is also important to consider not only the interests of the existing government in cases of secession but also the interests of other citizens in the state. There may be cases where revolution is justified but secession is not.

Third, Buchanan, Miller, and Moore's theories do not fully account for the irreparable harm secession causes. As I have explained, secession expropriates potential benefits from the members of the rump state. Not only will the current citizens of the rump state be deprived of taxation and assistance in defense, but future generations. While agreements can be made to mitigate these harms, secession still damages the current and future individuals of the rump state. Thus, a theory of secession needs to fully account for this harm. Each of the theories we are considering address this issue, but their analyses come up short.

For example, Buchanan argues that Lithuania was justified in secession because of its conquest by the Soviet Union and the need for rectificatory justice.³¹ Buchanan does try to account for the damages to non-Lithuanians by offering dual citizenship and emigration to Russians. Still, he fails to realize that every person can be harmed by secession and deserves consideration in a decision to change the borders. Specifically, Buchanan argues that neither Soviet colonists in Lithuania nor their descendants should be considered when determining whether to secede. Even if non-Lithuanian colonists settled by unjust means, they and their descendants still have a right to determine their government.³² If they are concerned about a declaration of secession, then they should be involved in that decision. The benefits of living in

³¹ Buchanan, *Secession*, pp. 159.

³² Buchanan, *Secession*, pp. 159.

the same territory and the harm that occurs when it is taken away impact the whole polity. Therefore, the interests of the whole state should be taken into account. Exclusion of anyone living in the territory from a process of secession prevents a full accounting of the interests of those against it.

Moore proposes an interesting way to get around this, by emphasizing reciprocity. She believes that a group that exerts its right to self-determination through secession should uphold economic ties and covenants with the rump state unless serious injustice is done to the group wishing to secede. Specifically, Moore argues that reciprocity mitigates significant harm to the rump state while not violating a group's right to self-determination. Still, I take issue with this principle. If a state completely secedes, it will have territorial rights and sovereignty over its decisions. Thus, they should not be bound to the retention of past agreements in perpetuity. Moore's conception of reciprocity would not permit a seceded state to truly have autonomy over its territory.³³ Moore's argument for reciprocity applies better to groups using self-determination to achieve semi-autonomy rather than completely separating their territory. Therefore, Moore's appeal to reciprocity does not in the end help to justify secession. There must be a higher bar to morally justify such drastic action.

Miller attempts to solve the issue of irreparable harm in two ways. First, he places a high bar to pass for a group of people to be considered a nation with the right to self-determination. Particularly, Miller requires that the group have a distinct national identity, meaning the people in a self-determining nation do not identify with two different groups.³⁴ For example, if the people of North Carolina see themselves as both North Carolinians and Americans, then they do not have a right to secede. Moreover, to justify secession, the nation needs a clear, historically

³³ Moore, *A Political Theory of Territory*, pp. 130 - 134.

³⁴ Miller, 'Secession and the Principle of Nationality', pp. 72 - 75.

backed claim to the area they wish to take. Second Miller further qualifies his argument by claiming that the political realities of the rump state, particularly the stability of the rump state, affect the justifiability of secession.

Although Miller attempts to account for the effects on the rump state, he fails to clarify why self-determination should outweigh the harm to the rest of the state. If the nation initially created a state on consensual grounds, and the people of the rump state have developed important economic and defensive ties, then they should not lose that territory without agreeing to terms of secession. Even if losing these ties would not destroy the rump state, it does not mean they can be removed without some recognition of the rump state. Similar to our objection to Moore, Miller fails to distinguish between the right to reside in an area, and the right to control its territory. These territorial rights, as a function of unity, cannot and should not be expropriated by an appeal to self-determination without the current possessor's recognition. Miller thus does not fully account for the irreparable harm of secession.

Buchanan does a better job of accounting for the harm of secession. His method of aggregation and weighing of interests does consider the damage of secession and ensuring both sides have their interests represented. Still, Buchanan permits unilateral secession in the case of serious injustice, such as severe persecution. While it appears that the government's unjust actions would forfeit their claim to the territory, in reality, it is unfair to the current and future generations that are not part of the oppression.³⁵ Those in the state who are not part of the government, especially in authoritarian regimes, should not be unilaterally punished for a government they have not chosen and may even oppose. Therefore, Buchanan's permission of unilateral secession, although setting a high bar, still permits unjust secession.

³⁵ Buchanan, *Secession*, pp. 30 - 81.

Since the harm of secession is so significant, the bar for secession must require both sides' interests to be represented. Therefore, for both sides to represent their interests, secession cannot be unilaterally justified. Instead, it must be a function of a covenant and recognition between both parties. For example, let's have two groups within a single state, Group A and Group B. Group A decides to secede, but the government chooses to not recognize the secession. Still, Group A finds a way to prevent the government of Group B from enacting laws, but the rump state government does not recognize the secession. In the area Group A occupies, it acts as a de facto government, but not a state with territorial rights. But, over time, as the government of the rump state agrees to recognize that territory as legitimate, it cedes the right to it. At this point, once the rump state's government cedes its territorial claim, the area Group A occupies becomes a state.

Buchanan, Miller, and Moore all permit unilateral secession, whether it be through self-determination in the case of Miller and Moore, or remedial right claims in Buchanan. These mechanisms will inevitably prevent both the would-be secessionists and the rump state from having a voice in the change in borders. From this analysis, we should conclude that Buchanan, Miller, and Moore's theories fall short in fully accounting for vital concepts that relate to secession. To rectify these issues, I will defend a new principle of secession.

IV. The Secession Principle

Buchanan, Moore, and Miller ultimately fail to account for the differences between states and governments and between revolution and secession. As a consequence, their respective theories fail to take proper account of the harm caused by secession to the individuals in the rump state and the vitality of recognition in the creation of new states. Instead, I propose a new principle of secession:

The Secession Principle: Secession is justified if and only if the current state that possesses the territorial rights of an area relinquishes its claim to the territory and recognizes the new state.

To illustrate how this principle would operate, let us return to our original example of the desire for secession in the State of Westland. At the time we left the story, the state of Westland is made up of three groups, the Agrarians who dominate political life, the Urbanites, and the Tritons. The Tritons, because of past oppression believe the only way to properly defend their group is to leave the state of Westland and create a new state. Still, their new state needs land and since all of the land on Diomedea is the territory of either Westland or Eastland, they decide they have no alternative but to take the land they live on as their territory. Still, the Urbanites and Agrarians are opposed to this secession, and since the Tritons do not have enough political power to get the government to permit secession, they begin protesting and asking Eastland for help. Although Eastland may be sympathetic to Triton's cause, they are forced to remember the covenant they made with Westland establishing the borders and territory of each state. Therefore, until Westland agrees to sacrifice this land, Eastland cannot justifiably recognize the Tritons as an independent nation.³⁶

The only way that Eastland can justifiably provide military support or intervene in support of the Tritonian movement for secession is if the Government of Westland actively oppresses Tritonian life. Here, Buchanan's Just Cause theory becomes relevant. If the Tritonians are under so much oppression that their existence or way of life is under threat, then they can be justified in using violence to resist. This in turn justifies intervention from other states like Eastland based on the morally acceptable aim of preventing injustice. However,

³⁶ If the government got so repressive, then Eastland could justifiably provide proxy support, but they would need a just cause, such as explicit repression. Also, this intervention would likely justify war between Eastland and Westland.

assistance by Eastland is limited to defending the Tritonians from oppression. Eastland can act as a peacekeeper, to prevent invasion or active repression, but cannot seek to forcefully tear apart the state of Westland. Still, if the Tritonians are not under significant pressure that might justify violence, then Eastland cannot interfere with the actions that occur within the sovereign territory of Westland. Similar to direct invasion, a state cannot without just cause seek to interfere with the boundaries or actions of another sovereign state as that would violate the original covenant during the creation of the borders. Since secession requires recognition of a new state by the rump state, the Tritonians are justified in seeking secession but outside support and the use of violence requires significant oppression similar to Buchanan's just cause.

As the movement from the Tritons intensifies, some Triton leaders consider the possibility of violent rebellion. Many want to use acts of terror to fight for their cause. Although this might be effective, one Tritonian leader reminds the others that while their culture has been repressed, violence cannot be justified unless it is proportional, for it would be unjust to kill those who have not killed or oppressed the Tritonians.³⁷ Although this argument lasts for now, soon the Agrarian and Urbanites order a crackdown on demonstrations, including arrests and deaths of Tritonians. This repression ultimately leads the Tritonians to realize they have a just cause for retaliation, including violence, and that it is their last option. So, they decide to raise an army and fight Westland for their freedom.

As the war goes on, the Tritonian military leaders are shown to be quite competent. As they continue to gain victory, the rest of Westland relents and decides to seek peace. At a peace conference, the state of Westland and the leaders of the Tritons agree that a new state, Tritonia

³⁷ Here I am referencing Jus Ad Bellum, for a group to morally use violence, they must have a just cause, legitimate authority, proportionality, last resort. We assume legitimate authority is held by groups of individuals seeking to defend themselves from violent repression.

will be created. It will be made up of the land that the Tritons occupy and some inland territory to provide them better farmlands. Once the treaty is signed, and Westland recognizes the borders, the territorial rights are granted to the state of Tritonia and thus secession is now done.

When discussing the importance of accounting for the damage to future generations, it is important to remember that we cannot consider every single person's opinion. The future generations have not been born yet and have a right to be protected. Since the future generations cannot be consulted, the best way to account for their potential objections is to have a collaborative rather than unilateral effort. While this collaborative effort will not fully express the unknown benefits or costs of ceding land, it does ensure that decisions are not made rashly or with only one side's interests in mind. Remember, when we discussed the original creation of Eastland and Westland, they created the two states to avoid conflict with one another over what territory their government could administer. Both sides considered their interests, and while they did not have input from future generations, they still provided the best account possible for what situation would be best for their community. The state can be created as a permanent entity because there are longstanding agreements that were originally made with the express interests of both sides in mind, and thus a change in the borders and creation of a new state must follow the same mechanism.

This example is meant to illustrate that *The Secession Principle* operates in a simple and broadly applicable way. It does not require massive historical analyses of national identity, demographics, or accounts of injustice. It merely requires that there be a multisided agreement to relinquish control over a piece of territory and transfer the territorial rights to a different state. The following discussion will highlight how *The Secession Principle* accounts for the flaws that plague Buchanan, Miller, and Moore.

A key advantage of my account is that, unlike Moore or Miller, the principle does not rely on the proper identification of a group possessing occupancy rights to a piece of land. Any politically united group can be justified in seeking secession, but they cannot claim to maintain territorial rights and have a state until the current possessor recognizes this and chooses to relinquish any future claims to the land. In doing so, it recognizes the durability of territory and states. In a way, this principle allows for many groups to properly seek secession but limits their ability to succeed until the rest of the state agrees to the change in borders.

This in turn solves the issue of self-determination. As discussed earlier, Moore and Miller place a close connection between a group's right to self-determination and territorial rights. While they try to qualify their arguments by stating it must be determined on a case by case basis, their arguments favor the group wishing to secede without accounting for the harm inflicted on the individuals in the rump state. My theory avoids this imbalance by separating territorial rights from direct self-determination and making the creation of territory a function of covenant rather than just occupancy. Thus, *The Secession Principle* permits individuals on both sides to exert their self-determination through negotiation and avoids improper expropriation from unilateral secession.

Furthermore, *The Secession Principle* places the ability to change the borders of a state within the hands of the legitimate government. A state should only lose territory if it agrees to cede its rights to that land and recognize the new government as legitimate. It ensures territory is never expropriated from the other members of society, instead of leaving it to be from an agreement. For example, during the American Revolution, the thirteen colonies declared their independence in 1776. If the perspective was taken from Moore or Miller, this Declaration of Independence could have been enough to endow the colonies as a formal state. But, how is it

fair for other subjects of the British empire to lose territory without having some say in its loss? In effect, the benefits they would have gained from free trade and unified protection for a subject in Canada or Scotland would be lost. Therefore, the United States did not officially secede or become a state until the British agreed to the Treaty of Paris in 1783 formally ending the War.

Moreover, my principle permits a group who perceives any type of retribution to seek remedial justice, but still limits these actions to non-separation until the current state agrees. As discussed above, while attempting to account for the difference between secession and revolution, Buchanan fails to effectively define when one is justified over the other. My principle clarifies this, by stating that both Secession and revolution can be justified by the causes claimed by Buchanan, but in secession, the result requires a covenant between the new and rump state. In doing so, it clarifies that secession has a higher hurdle to get through, but not by trying to balance the aggregation of different offenses but based on what is an agreed-upon outcome. Thus, it permits both sides to have a say in the creation of new states without giving one side complete control. The group seeking secession can advocate and respond proportionally to the acts of the state, but the state also must be involved in the changing of borders and granting of territorial rights.

Therefore, *The Secession Principle* does permit war for secession, conditional on it fulfilling the conditions of *jus ad bellum*. If secession comes as a result of war, it remains legitimate. While one may see coerced recognition as illegitimate, in truth it is merely the creation of an agreement that ends the conflict. When a peace treaty is made between multiple parties to create peace, both sides are basing their concessions on their relative position. Their position is in part a result of the coercion that occurs in war, but just because this coercion exists does not mean the act of recognition is no longer legitimate. Thus, the resulting secessions can

come about as an end to the conflict, and undoing secession cannot constitute a just cause for war.

Finally, a practical advantage to *The Secession Principle* is that it clarifies claims over disputed territory. While this is an argument about secession, this principle can also apply more broadly to border disputes. Since a state loses its territory only when it agrees to sacrifice it, this principle prevents a state who loses territory from returning to claim its sovereignty. For example, if the future leaders of Westland wanted some of the inland territories back, they would not have a just claim to do so because their legitimate government has already sacrificed this land. And without having a just cause for war, then these borders are at least morally stable. Thus, this principle does not require a full analysis of the groups who lived in the territory, but merely gives the territory to the government which was granted it through covenant. Thus, claims to territory may be more easily arbitrated and resolved to avoid future conflict and confusion. Ultimately, *The Secession Principle* is a better account for justifying when secession is just versus unjust.

V. Cases Studies

In this section, I will illustrate *The Secession Principle* by applying it to two modern case studies to determine if secession is justified. Through this application, I will illustrate how it performs better than Buchanan, Miller, and Moore's theories.

A. South Sudan

South Sudan officially seceded from Sudan in 2011, becoming the world's newest country.³⁸ South Sudan was quickly recognized around the world, implying that the secession

³⁸ "Sudan Profile - Timeline," *BBC News*, September 10, 2019, sec. Africa.

was accepted. We will now apply *The Secession Principle* to determine whether South Sudanese secession was morally justified.

Sudan and South Sudan are two large countries in North-Eastern Africa. Sudan has a small coastline on the Red Sea while South Sudan is landlocked. The Nile River runs through both countries, where the Blue and White Nile tributaries divide and run further into Ethiopia and Uganda respectively.³⁹ Sudan is a majority Arab and majority Muslim Country with approximately 45.5 million people. South Sudan has multiple ethnic groups but is majority Christian and has a population of about 10.5 million.⁴⁰ Sudan is relatively arid compared to the fertile lands of South Sudan. Both countries heavily rely on oil sales for their economy. Most of the oil reserves in Sudan sit in the South, while the pipelines, refineries, and ports are in the North. This interdependent relationship makes economic cooperation vital, but also makes relations more difficult.⁴¹

Before we consider the legitimacy of secession, we must understand the roots of South Sudan's conflict with the North. Our story begins in 1956 when Sudan received independence from British colonial rule. Before independence, Sudan had been a part of the Anglo-Egyptian condominium. This colonial unit was jointly administered by the British and Egyptians under the British empire.⁴² In this period, Sudan had been divided into a predominantly Arab North region and a more Christian South. The North, centered at Khartoum was Sudan's administrative center. The Anglo-Egyptian condominium was dismantled following the post-World War II decolonization. In 1956, Sudan received independence from Great Britain, and Egypt renounced any claims to the territory of Sudan. Still, the administrative distinctions

³⁹ "Africa :: South Sudan — The World Factbook - Central Intelligence Agency," accessed December 10, 2020.

⁴⁰ "Africa :: Sudan — The World Factbook - Central Intelligence Agency," accessed December 10, 2020.

⁴¹ "Africa :: Sudan — The World Factbook - Central Intelligence Agency," accessed December 10, 2020.

⁴² "Sudan Profile - Timeline," *BBC News*, September 10, 2019, sec. Africa.

established under colonial rule remained. The North remained the center of power and refused to share this with the South.

Following independence, Sudan went through much internal conflict. The government would see multiple coups and a rise of Islamism. One major conflict during this period was with the Anya Nya Movement in the South.⁴³ The Sudanese government favored Arabs and Islam by placing repressive restrictions on the Christian south. Therefore, the southern-based Anya Nya movement used violent means to seek concessions and autonomy for the south from the northern rule. This conflict ended with the 1972 Addis Ababa agreement that provided the South autonomy and some protections. The seeds of conflict were laid again in 1978 by the discovery of large oil reserves primarily in southern Sudan.⁴⁴ In 1983 the Sudanese government in Khartoum ended southern autonomy and began expropriating fertile farmland in the south. Furthermore, the Sudanese regime implemented Sharia Law. All of these actions violated the 1972 Addis Ababa agreement. The result was a new rebellion under the banner of the Sudan People's Liberation Movement/Army (SPLM/A).⁴⁵ This conflict would last until 2005.

After decades of civil war, the Sudanese government and SPLM/A finally engaged in peace talks. These talks culminated in the 2005 Comprehensive Peace Agreement. This agreement provided autonomy for the south along with clarity on sharing oil revenues. However, the most relevant part of the treaty was the requirement that a referendum would be held in the South on whether to secede or not. This referendum was held in January 2011 and South Sudan became an independent state in July 2011.⁴⁶

⁴³ "Sudan - The Growth of National Consciousness," Encyclopedia Britannica, accessed December 10, 2020.

⁴⁴ "Sudan Profile - Timeline," *BBC News*, September 10, 2019, sec. Africa.

⁴⁵ Girma Kebede, "Sudan: The North-South Conflict in Historical Perspective" 15 (1997), pg. 9.

⁴⁶ Marina Ottaway Hamzawy Amr, "The Comprehensive Peace Agreement," Carnegie Endowment for International Peace, January 4, 2012.

South Sudan's secession illustrates the intricacy of civil wars and how they can be ended. The complexity of weighing the interests of the North and South, along with the past injustices and cultural divides make it ripe for an interesting discussion. Thus, we can pose the question: Was South Sudanese secession justified?

Under the framework for secession that I have defended, the answer is: yes, South Sudan's secession is justified. To apply my framework, we must answer two simple questions: "Was there a state that held legitimate control over the territory?" and "did its government agree to cede that territory?" The Sudanese government held the territory of Sudan legitimately after the decolonization by the British and the renouncement of claims by the Egyptians. The state of Sudan would retain these rights until they chose to abdicate them. Thus, when the 2005 Comprehensive Peace Agreement laid out a framework for potential independence in the south, Sudan agreed to cede its territorial claims to a new government. As long as the referendum was followed as defined in the agreement, then secession was morally justified.

Still, how does *The Secession Principle* compare to Buchanan, Miller, and Moore's theories? I will now illustrate why *The Secession Principle* performs better.

First, Buchanan's framework would also provide support for South Sudanese secession. Buchanan emphasizes just cause and the weighing of interests in determining the morality of secession. Therefore, the important question is: did the South have enough injustice committed against them to warrant secession? The South's large oil reserves and fertile land made it economically vital for the Sudanese economy. Thus, the interests of the people of Sudan in keeping the southern territory were significant. Still, the injustices against the south outweigh the interests of the rump state. Following Sudan's independence, the Majority Arab North sought to use political power to restrict the rights and wealth of the south. Whether it was laws

that favored Islam or the expropriation of land from South Sudanese farmers, the North perpetrated a plethora of injustices. Even if there was not a direct peace treaty previously consenting to secession, the South Sudanese would still be justified in their independence.

While Buchanan does come to a similar answer as my theory, he still fails to fully account for the interests of the people of Sudan. Since the majority of the Sudanese economy relies on oil exports, the loss of these oil fields brings harm to both the government of Sudan and the people. Thus, the bar is incredibly high for conceiving of a moral secession. While it is undeniable that the Sudanese government committed serious injustices, there are alternatives to secession. As the 1972 Addis Abba agreement illustrates, the potential respect for southern autonomy could bring about peace. Thus, a unilateral rebellion by the south to enforce this autonomy could replace secession as a tool to prevent injustices. These alternatives for achieving peace mean a preemptive declaration of secession by the people of South Sudan without Sudanese consent would unfairly strip away Sudan's primary economic export. While Buchanan is right to justify unilateral actions by the South to protect their liberties and autonomy, the potential for a unilateral declaration of secession means the interests of both parties would not be fully respected.

Second, Miller's framework provides ambiguous opposition to South Sudan's secession. Miller endows a nation of commonly identifying people with long-standing ties to the land the right to secede through self-determination. Miller defines a nation as a group of individuals with obligations to each other, who perceive themselves as in the same group, and seek personal autonomy through shared culture, history, etc..... Since the people of South Sudan have been there for centuries and the referendum expressed their decision to leave Sudan, to determine whether South Sudan justly seceded, we must see if the people of South Sudan fit these criteria.

First, the group must have obligations to each other. During the past civil wars with the North, there was a clear sense of unity among groups. Moreover, the common Christian identity further united the people in South Sudan.⁴⁷ The shared suffering at the hands of the North united different ethnic groups in the SPLM/A and illustrated a clear perception of obligations to one another.

Second, the groups would have to see themselves as a part of the same group. The south's diverse ethnic groups maintained some unity due to the common opposition to the north and religious similarities.⁴⁸ While South Sudan remained within Sudan, the south could be considered to see themselves with a common identity. However, once independent, this unity collapsed. This lack of ethnic unification could lead to two different interpretations. One could say the basic identity developed in opposition to the north would fulfill Miller's criteria. However, one could state the lack of unified recognized groups implies that the people of South Sudan are not truly a nation. Depending on the analytical context, one can argue in different ways whether the South Sudanese people perceive themselves as within the same group.

The last question is whether individuals seek personal autonomy through shared culture, history, ect... This again depends on the context you are analyzing. Within the State of Sudan, the shared religion seems to imply that the people of Sudan are a distinct nation within Sudan. But, without the common enemy, the people of South Sudan maintain separate ethnic and communal divisions. Thus, it is not clear if the South Sudanese fit David Miller's conception of a nation. If looking within the context of the state of Sudan, then they are. If it is a post-secession South Sudanese state, then there is compelling evidence that they are not one nation.

⁴⁷ "South Sudan - The World Factbook," accessed January 10, 2021.

⁴⁸ "South Sudan - The World Factbook," accessed January 10, 2021.

This ambiguity illustrates that a primary failing of David Miller's framework is the ambiguity in applying the definition of a nation. Depending on the context of analysis, one could see the South Sudanese people either as a nation or not. In the context of the Sudanese State, there are compelling arguments for conceiving South Sudan as a nation, while independent of dominance from the North there are not. The ethnic in the south divisions were merely papered over while the groups were part of Sudan. The subsequent South Sudanese civil war between the primary ethnic groups, Dinka and Nuer, crystallizes the difficulty of defining a legitimate governing body as a nation. By eschewing the definition of nations, my theory avoids the ambiguity of Miller.

Finally, Moore's framework would be supportive of South Sudanese secession. Despite the previously mentioned ethnic divisions in the South, the people in South Sudan would still constitute a "people" in Moore's eyes. This is because the group living in South Sudan maintained a similar political interest and had a claim to the land that they lived, farmed, and worked on. Thus, the political union of individuals in South Sudan endowed them with the group right to secede. Since the 2011 referendum represented South Sudan's desire for independence, they justly seceded.

Moreover, South Sudan's secession from Sudan exemplifies Moore's principle of reciprocity. To avoid the harm caused by a unilateral secession to individuals in the rump state, Moore sees the maintenance of current economic agreements as imperative. The 2005 Comprehensive Agreement ensured that oil revenues be shared and current pipelines were maintained. Thus, despite the act of self-determination in the 2011 referendum, the harms that could have befallen the people of Sudan were avoided.

Still, South Sudan illustrates that my Secession Principle performs better than Margaret Moore's because it accomplishes the same goal with less complexity. Specifically, Margaret Moore's principle of reciprocity adds unnecessary complexity. The boundaries between Sudan and South Sudan were not always clear, and the economic reliance on each other might make secession seem unjustified. How could the Sudanese be forced to sacrifice most of their oil reserves, and how could the people of South Sudan lose their port? The truth is that these considerations are important but not necessary for secession under my framework. Since the agreement laying the framework for secession was mutual, the important economic ties between the two countries would ostensibly be worked out. If they were not, then the failure would have been due to bad negotiations, not a unilateral act of secession. Both Sudan and South Sudan retain the prerogative to harm themselves. Although it would not be advisable, since the governments of both sides maintain the ability to make decisions for the collective, they are not inclined to maintain economic ties with the rump state because the secession was recognized by both states. Moore's emphasis on reciprocity is unnecessary for secession because it is multilateral and inherently requires some level of agreement from both sides.

Both Moore or Miller require complex analyses of who constitutes a nation and thus justify South Sudan's secession. However, the constitutional issue is irrelevant for questions of boundaries of states. Since states are longstanding political institutions not made for a specific ethnic or religious group, the changes in boundaries do not concern the particular identities of people. Instead, my reason for supporting South Sudanese secession comes plainly from the Comprehensive Peace Agreement of 2005, which outlines the process to achieve secession. By affirming that a referendum would be held six years from the agreement and that Sudan would recognize South Sudan if it seceded, the subsequent secession is justified to both parties.

Buchanan, Miller, and Moore would all see the vote in 2011 as an act of declaring independence. However, this is not the case. Secession was justified not because of the referendum's result, but rather because of the 2005 Comprehensive Peace Agreement. This agreement, as discussed above, established federalization, disarmament, and oil sharing. But, the most important part of the agreement was that it required a referendum on secession in 6 years.⁴⁹ In this, the North agreed to respect secession and recognize the South as a separate state if the referendum favored secession. Without this agreement, a referendum in the South would not have mattered, since the North likely would not have recognized it. Therefore, South Sudan was a justified secession wherein the rump state of Sudan ceded its claim to the territory in the south.

Furthermore, South Sudan's use of violence before the Comprehensive Peace Agreement of 2005 illustrates the legitimate application of Allen Buchanan's Just Cause theory. While Buchanan's framework does not comply with the high bar necessary to limit secession, it does give a good understanding of when violence can be used to justify autonomy or secession. The people of South Sudan had been oppressed by the North, with wealth expropriation, implementation of Sharia law, and elimination of their political representation. These acts would pass Buchanan's bar for justifying secession. But I am arguing that they would not be sufficient. Secession can only be justified through recognition, not a unilateral declaration. Instead, the response to oppression that Buchanan lays out justifies a rebellion to protect one's rights. While they could not unilaterally declare secession, they could engage in revolution fighting for autonomy. In doing so, the Anya Nya and later the SPLM/A engaged in a justified rebellion to defend their interests as a last resort. Moreover, the agreement of Addis Abba and the declaration of autonomy for the South in 1972 and later in the Comprehensive Peace Agreement

⁴⁹ Marina Ottaway Hamzawy Amr, "The Comprehensive Peace Agreement," Carnegie Endowment for International Peace, January 4, 2012.

illustrate the just results of a conflict wherein secession was not agreed to. Thus, we not only see South Sudan's secession as justified, but the initial use of violence to defend interests was also supported.⁵⁰

Ultimately, South Sudan illustrates a case of justified secession, because the Comprehensive Peace Agreement fulfilled the recognition and agreement conditions required to justify secession. Although South Sudan's government initially failed, the state and its boundaries remained recognized and intact. In effect, the proper process was followed and although the success of this process can be debated, the legitimacy is clear.

B. Taiwan

The second case we will consider grapples with the issue of Taiwanese sovereignty and the legality of potential secession. Taiwan is becoming a hot zone, with the Chinese President Xi Jinping hoping to bring it under the control of China. The Chinese government remains aggressive in defending its claims to sovereignty over the island, threatening to go to war to prevent any attempt at secession. A high-ranking People's Liberation Army general, Li Zuocheng stated in regards to Taiwan:

If the possibility for peaceful reunification is lost, the people's armed forces will, with the whole nation, including the people of Taiwan, take all necessary steps to resolutely smash any separatist plots or actions.⁵¹

The Chinese government's bellicose statements indicate a desire to prevent Taiwanese secession and enforce their claims to vital sea lanes in East Asia.

Just as the Chinese government seeks reunification, the people of Taiwan are increasingly identifying as distinctly Taiwanese. In 2018, a study by the National Chengchi University found

⁵⁰ It is important to note here that the actions taken by the SPLM/A and Any Nya movement were not always within the framework of *Jus in Bello*. The statements of justification for violence relates only to have a just cause and do not mean the actors themselves were always just.

⁵¹ Yew Lun Tian, "Attack on Taiwan an Option to Stop Independence, Top China General Says | Reuters," May 28, 2020.

that 55% of Taiwanese people identify as Taiwanese, 38% as both Chinese and Taiwanese, and 4% as exclusively Chinese. These numbers changed significantly when compared to 1995 when the respective numbers were 20%, 45%, and 26%.⁵² With the Chinese Communist government committed to preventing secession the Taiwanese government now seeks to defend its declared sovereignty. Some in Taiwan argue the best way to do so is through secession. However, this poses a host of questions. First, would Taiwan be justified in seceding? Second, would the Peoples Republic of China be permitted to use violence to prevent Taiwanese secession? Finally, would the United States or foreign powers be morally justified in defending Taiwan from the PRC attempting forceful reunification? We will examine here the implications of Buchanan, Miller, Moore, and *The Secession Principle* for answering these questions.

It may be best to begin with a description of the geography of Taiwan and the history of its relationship to China. Taiwan is an island that sits about 100 miles off the coast of China.⁵³ Taiwan lies at an important junction for maritime trade for major economies, such as Japan, South Korea, China, and the Philippines.⁵⁴ This geography makes it strategically valuable to whoever controls it.

The relevant history of Taiwan specifically begins when it was still a small island, populated by aboriginal groups. In the late 1600s, the Qing Dynasty (the rulers of China) annexed Taiwan. Despite contestation, over time the Qing dynasty was recognized as the legitimate holder of the territory of Taiwan. The Qing Dynasty's possession of Taiwan ended following the first Sino-Japanese War in 1895. In the subsequent Treaty of Shimonoseki, the

⁵² Eleanor Albert, "China-Taiwan Relations," Council on Foreign Relations, January 22, 2020.

⁵³ Alan Taylor, "Taiwan's Kinmen Islands, Only a Few Miles From Mainland China - The Atlantic," October 8, 2015.

⁵⁴ "How Much Trade Transits the South China Sea?," *ChinaPower Project* (blog), August 2, 2017.

Qing Dynasty ceded Taiwan to Japan.⁵⁵ Taiwan remained Japanese territory until the end of World War II when the defeated Japanese were forced to return the Taiwanese territory to the Republic of China (ROC). These handovers illustrate that the territory of Taiwan can be legitimately transferred between states, but it requires recognition from the current legitimate possessor.

Moreover, before continuing the discussion of Taiwanese secession, we must comment on the history of the Chinese government in the 20th century. In 1911 the Qing dynasty was overthrown in a revolution, ending the imperial system in China. Following that revolution, a strong central government did not form. This led to a period of decentralization and competing warlords within the state of China.⁵⁶ By the late 1920s, the Nationalist Kuomintang Party (KMT) in conjunction with the communists began to fight warlords to re-establish a centralized government known as the Republic of China. This was followed by a purge of communists by the KMT and a subsequent rebellion, leading to a Chinese Civil War. This war was disrupted in 1931 by the Japanese invasion of Manchuria. To resist the Japanese invasion, the KMT and Communists paused the civil war. This conflict would eventually become wrapped into World War II, which ended in a Japanese defeat. The Chinese Civil war then restarted, and in 1949 the Chinese Communist Party (CCP) under Mao Zedong claimed victory.⁵⁷ They established the People's Republic of China (PRC) and claimed to be the legitimate government of the entire Chinese State. After the KMT's defeat, the remaining KMT members fled to Taiwan and established a rival government claiming to be the legitimate government of China called the Republic of China (ROC).

⁵⁵ Susan V Lawrence and Wayne M Morrison, "Taiwan: Issues for Congress," pg. 2 - 3.

⁵⁶ "Milestones: 1945–1952 - Office of the Historian," accessed December 6, 2020.

⁵⁷ "Milestones: 1945–1952 - Office of the Historian," accessed December 6, 2020.

Here, the territory of Taiwan reaches a level of stasis. Both the PRC and ROC claim to be the legitimate government of all of China, with the specter of conflict remaining. The conflicting claims to authority in China become a point of contention during the Cold War. The United States recognized the ROC and the Soviet Union recognized the PRC. Over time, the PRC solidified its position on the mainland territory making the restoration of the ROC unlikely. In the 1970s the United States wanted to improve relations with the PRC, which resulted in the United States recognizing the PRC as the legitimate government of China. Still, the U.S. did not abandon Taiwan, continuing to provide aid and an implied security guarantee to the ROC against a PRC invasion. This policy of recognizing the PRC but preventing forceful reunification with Taiwan was called the "One China Policy."

Two major events, 1992 affected the Taiwan question: the democratization of Taiwan and the consensus "One China Principle." First, the Taiwanese government held their first open parliamentary elections, which brought in new voices that were not necessarily aligned with retaking control over all of China. Second, through semi-official organizations, the PRC and ROC semi-endorsed a consensus "One-China Principle".⁵⁸ This principle claims that while the ROC and PRC may differ on their interpretations of who governs this territory, there is only one State of China and it includes Taiwan.⁵⁹ This consensus theoretically prevents unilateral secession by Taiwan. Still, the "One-China Principle" has only been adopted by semi-official organizations under the ROC and PRC but is not official ROC policy.

In 2005, the PRC passed an Anti-secession law. The law empowers China to respond to any attempt at secession with force. Thus, the PRC would not actively seek to bring Taiwan

⁵⁸ PRC represented by the Association for Relations Across the Taiwan Strait (ARATS) and the ROC represented by the Taiwan Straits Exchange Foundation (SEF)

⁵⁹ Lawrence and Morrison, "Taiwan: Issues for Congress," pg. 38 - 45.

under their governance, but it would fight any attempts at secession.⁶⁰ The PRC's aggressive policy towards Taiwan maintains the specter of conflict. In the 2010s, two nationalist leaders came to power that set the stage for the ROC and PRC to enter into conflict. In 2012, Xi Jinping ascended the Presidency of the PRC.⁶¹ Deeply committed to expanding Chinese geopolitical influence, he has focused on bringing Taiwan under the PRC. In Taiwan, Tsai Ing-wen was elected President at the head of the Democratic Progressive Party (DPP). As younger Taiwanese citizens increasingly perceive themselves as distinctly Taiwanese, the DPP has gained political support to affirm Taiwanese sovereignty.⁶² Although many don't expect President Tsai Ing-wen to attempt secession, she has no interest in submitting to PRC governance.

With this history of Taiwan and its relationship to the Chinese State in mind, we can apply my framework of secession to a potential claim of secession by Taiwan. The philosophers we discussed previously would take different approaches. First, David Miller might see the rising cultural distinction by the Taiwanese people as an important factor in determining whether secession is justified. Through decades of separation and increasingly separate identity, the people in Taiwan have established just separation and possession of the island of Taiwan. Therefore, the people of Taiwan could utilize their right to self-determination and secede. Moreover, since they have a representative democratic government that protects minority rights, Miller's argument suggests that secession would be just if chosen by the Taiwanese people.

Second, Allen Buchanan might ask whether the territory of Taiwan has been justly treated by the Chinese State. The Chinese government has attacked Taiwan in the past, including shelling and threats of invasion. Moreover, the authoritarian regime of the PRC has

⁶⁰ Lawrence and Morrison, "Taiwan: Issues for Congress," pg. 38 - 45.

⁶¹ Lawrence and Morrison, "Taiwan: Issues for Congress," pg. 38 - 45.

⁶² Lawrence and Morrison, "Taiwan: Issues for Congress," pg. 38 - 45.

taken aggressive actions to suppress dissent in Hong Kong, Tibet, and Xinjiang that seeks to destroy their independent and unique cultures.⁶³ Thus, the Taiwanese would have the right to secede to defend their rights and prevent Chinese injustice. Buchanan might be interpreted as opposing secession because unjust actions have not occurred yet against Taiwan from China. Still, the 2005 Anti-secession law, the re-education camps in Xinjiang, and the recent destruction of Hong Kong sovereignty provide ample support for the concern that China will impose unjust actions on the people of Taiwan. Since Buchanan's goal is for countries to achieve just governance, secession is a way to prevent unjust authority based on a legitimate expectation of injustice.

Finally, Margaret Moore might look at the unification around a similar politically united group. Since the people of Taiwan perceive themselves as a politically united group of individuals with their own government, then Moore would support a legitimate attempt at secession. While Taiwan would be required to maintain reciprocal agreements with the people of China, Moore would see the Taiwanese people having a right to secede through an act of self-determination.

While individuals can interpret Buchanan, Miller, and Moore differently, it is clear that there are legitimate grounds within each framework to justify secession by Taiwan if they chose to declare it unilaterally. However, I will argue that this is the incorrect conclusion, and Taiwan would not be morally justified in unilaterally seceding.

In contrast to Miller, Buchanan, and Moore, my framework does not require complex and subjective determinations. Instead, we need only to ask two simple questions: Which State was previously recognized as the legitimate possessor of Taiwan? And has the government of that

⁶³ Stephanie Nebehay, "China Rebuked by West at U.N. Rights Forum on Hong Kong, Xinjiang."

state ceded its claims to that territory? The answer to these questions lies within the history discussed above. Although the initial annexation by the Qing dynasty in the late 1600s was done through force, and thus it is debatable whether it was initially just, the Chinese State's possession was eventually recognized by past claimants. In 1895, Taiwan became part of the State of Japan's territory. The territorial rights were not possessed by the Chinese State but by the Japanese state. Then, in 1945 the Japanese returned the territory to the Chinese state. No territorial change has since occurred and Taiwan remains under the domain of the State of China.

Second, based on the discussion above, the government functionally controlling the non-Taiwanese territory of the State of China is the PRC. The PRC has made it clear through the 1992 One China Policy that it has not agreed to cede the State of China's claims to Taiwan. Therefore, if the ROC were to declare Taiwan an independent state, countries should only treat this as an attempt to seek secession. It is not sufficient to justify treating Taiwan as an independent state. Unless the PRC recognizes Taiwan as an independent state, Taiwan must not be perceived or recognized as a state endowed with Territorial rights. If other countries were to recognize Taiwanese sovereignty, it would violate the principle of territorial sovereignty.

Instead, the ROC should be treated as a de facto government of the Taiwanese territory. It represents the inhabitants, can make laws, and field armies to defend them. Still, it does not carry with it the right to prevent immigration from mainland China or enforce territorial claims not associated with the Chinese State. Moreover, infringements on the territory of Taiwan should be perceived as infringements on China as a whole. Thus, the PRC would be justified in defending the territory of Taiwan from any invasion under the framework of Just War Theory.

Although the ROC's de facto governance of Taiwan prevents the PRC from claiming to be the legitimate government of the entire Chinese State, Taiwan remains a piece of territory

within China. Thus, the people living in China and Taiwan have a right to trade and live within Taiwan. Also, the ROC and PRC cannot restrict the movement and trade of Chinese people beyond reasonable regulation.

If ROC were to declare Taiwan an independent state, then they would not be justified in doing so because they are not entitled to unilaterally harm Chinese people left in the rump state. Unlike Miller, Buchanan, and Moore, my theory respects both the rights of the people living under the PRC and Taiwan to remain within one state, even if they are governed by different entities. Ultimately, the One China Policy supported by the PRC and the United States correctly describes the current territorial state of China under my framework. There are disagreements over the legitimacy of the government of China, but the state at the core of the ROC and PRC's areas of governance persists. Still, one part of the One China Policy remains illegitimate, and that is the PRC's claim that secession is perpetually illegal. Although Taiwan is currently in the state of China, that is not necessarily a permanent condition. As illustrated by the transfer of Taiwan to the Japanese in 1895, the state in control of territory is not permanent. It can change hands when the government inhabiting the state not seceding chooses to relinquish territory. Pursuits of secession can still be justified. My framework does not preclude Taiwanese people from seeking secession through peaceful means. Exercising their natural liberties, the Taiwanese people can choose to seek negotiated secession. While they cannot unilaterally declare independence, if they receive recognition of the PRC, then they can secede.

Next, let us ask what the ROC and PRC can justifiably do in response to a claim to secession. Could the PRC justifiably use force to retake control over Taiwan or suppress attempts at secession? Or is the ROC justified in using force to defend itself? The legitimacy of

using force in response or pursuit of secession depends on how the PRC seeks reunification or the ROC chooses to secede. So, we will imagine a few scenarios.

An important caveat to make before diving deeper into the discussion requires us to address the realist retort that morality should not play a role in the decisions of states. The PRC, ROC, and United States all have pragmatic interests in maintaining security, economic prosperity, and geopolitical standing. I do not mean for the discussion of morality to totally replace these considerations. Instead, the moral limitations on actions by the states should provide a framework that complements pragmatic considerations.

First, imagine the ROC wants to unilaterally declare secession. In doing so, the ROC then attacks PRC military positions to pre-empt an invasion. In this case, the PRC would have a legitimate interest in preventing secession and a just cause to protect against pre-emptive attacks from the ROC. Therefore, the PRC would be justified in this scenario in using force. Still, there are obvious limitations to options to maintain the unity of the State of China. They could not justifiably use indiscriminate violence or terror against the people of Taiwan, but military options to remove top leadership and enforce the State of China's claims would be justified.⁶⁴

Or consider a second scenario: Suppose the ROC wants to negotiate secession and to gauge support of the population, it gives a referendum to the people. In this case, the ROC and its constituents are exercising their liberties to voice an opinion and peacefully negotiate secession. As discussed above, the 2005 Anti-Secession Law provides the Peoples Liberation Army (PLA) the ability to suppress secession attempts by Taiwan. If Taiwan attempted to hold a referendum to assess support for secession or seek negotiations with the Chinese for independence, the PRC's military would likely invade Taiwan or utilize economic restrictions to

⁶⁴ While I cannot fully address *Jus in Bello* during secession, I highly recommend future discussion on the topic.

coerce submission.⁶⁵ While the PRC would be justified in using force to prevent unilateral secession, the people of Taiwan also have a legitimate interest in avoiding oppression.

Individuals and groups within a state are justified in defending against oppression, whether it be external or internal. People can commit a revolution to break the entire government or expel unjust authority from a particular piece of territory while still not seceding. Revolution justified the PRC in taking power in 1949 over mainland China, but it also permits the inhabitants of Taiwan to protect their autonomy in response to oppressive actions. The use of force by the Chinese government to stop peaceful pushes for recognized secession in Taiwan would be seen as an act of oppression. Despite being within the same state, the ROC would be justified in utilizing its security forces to defend against the PRC aggression. The use of force to achieve or defeat secession requires a just cause. Without just cause, the two sides must instead seek peaceful negotiation. While my framework of secession provides the potential rump state with much protection against unilateral secession, it must not be misconstrued to support the use of unwarranted violence.

Finally, what can the United States or other countries do to prevent the PRC from oppressing the people of Taiwan? Well, there are two options: they could provide aid to the ROC, or they could intervene on humanitarian grounds. Providing military aid to the ROC does not violate the sovereignty of the Chinese state. United States government and its people have the right to engage in commerce with individuals, as long as they abide by the laws of the government within the territory. In Taiwan, the government is not the PRC but the ROC, and thus if the ROC allows the United States to sell or give weapons, then it is permissible for the United States to do so.

⁶⁵ Yew Lun Tian, "Attack on Taiwan an Option to Stop Independence, Top China General Says | Reuters."

This is exactly what the United States has done. The Taiwan Relations Act provides the U.S. the ability to sell weapons to bolster Taiwanese defense. While this Act does not recognize Taiwan in an official capacity, it does permit the U.S. to trade and cooperate with the ROC in an unofficial capacity.⁶⁶ The United States on humanitarian grounds has the right to ensure that a group can defend themselves and their basic liberties. Coming to the defense of Taiwan remains an acceptable act under my framework of secession. Taiwan, under the Taiwan Relations Act, is not officially a country but a region of the Chinese State that exists under a different government. Still, it is justifiable for individuals to trade and negotiate with this different government and the ROC has the right to purchase weapons to defend itself from potential aggression.

Moreover, the United States can intervene to defend the people of Taiwan in the case of a unilateral PRC invasion. Currently, the United States provides an ambiguous security guarantee to Taiwan. While it is not a treaty obligation, the United States will still defend the Taiwanese from unilateral Chinese aggression.⁶⁷ Assessing whether the security guarantee is permissible under my framework depends largely on how a conflict between the ROC and PRC began. If Taiwan unilaterally chose to declare independence, then the PRC would have justification to enforce the Chinese State's claims to prevent secession. However, absent a declaration of independence, a unilateral PRC invasion would provide more leeway for the United States to act. If Taiwan was invaded by the Chinese, it would eventually fall. Based on past repressive actions in Hong Kong and Xinjiang, Chinese conquest would likely repress the Taiwanese identity and political rights.⁶⁸ Therefore, based on the humanitarian grounds of preventing oppression, the United States would be justified in intervening on behalf of the Taiwanese. This intervention

⁶⁶ Susan V Lawrence and Wayne M Morrison, "Taiwan: Issues for Congress," pg. 9.

⁶⁷ Susan V Lawrence and Wayne M Morrison, "Taiwan: Issues for Congress," pg. 9.

⁶⁸ "World Report 2021: Rights Trends in China," Human Rights Watch, January 13, 2021.

would be justified as a defense of human rights. Considering that the United States and other countries can legitimately seek to ensure norms and stability across the world, other countries do have the right to intervene to protect against violation of human rights. Still, the United States would not be intervening on behalf of seeking Taiwanese independence. Instead, it would be engaged in support on behalf of the Taiwanese people, not a state of Taiwan. The ambiguous security guarantee of the United States is justified on the grounds of ensuring Taiwanese rights, but intervention would be unjustified if an invasion was caused by unilateral secession.

Still, it is important to note that the actions prescribed above relate to moral justifications. An important caveat is to recognize that there are pragmatic political actions that might lead the United States to defend Taiwan. The morality of an action is based on a set of norms that should be followed, but in exceptional cases, the norms might need to be violated for practical purposes.

The Taiwanese case study is a further justification of my framework of Secession. My framework simply and clearly implies that Taiwan cannot unilaterally secede. In effect, there are two governments within the singular State of China. The de facto consensus reached in 1992 supports my framework. The One China Policy appears to be for now the best way to maintain stability in the region. It both recognizes the legitimacy of individuals within a state to seek governmental autonomy while recognizing that the state itself remains intact. All of these competing interests are maintained without a complex analysis of cultural or political differences. Nor does determining the legitimacy of secession require subjective looks at what actions taken by the government are oppressive. In this sense, my theory accounts for the liberties of the Taiwanese people to call for secession, but also the PRC's interests in maintaining a singular state.

Conclusion

Ultimately, secession is justified if and only if the rump state agrees to cede its claim to the territory of the new state. While *The Secession Principle* seems simple and obvious, it creates a framework for determining justifiable secession. By emphasizing the act of multi-party agreement, we can see that states and governments themselves are at their core functions of agreement. Thus, by discussing when a new state is made, we gain a greater understanding of the foundations of the state itself.

Importantly, *The Secession Principle* raises the bar for secession to fully account for the rights of the rump state and its citizens. Unlike past theories, the *Secessionist Principle* recognizes the severity of secession. Unlike revolution, rebellion, or emigration, secession permanently removes the citizens of the rump state's ability to freely move, engage in commerce, and utilize the resources of the seceding territory. Secession's goal is to appropriate territory, and this is a more durable change than the liberation of a group of people. By ensuring that all parties recognize a change in territory, the rights of the would-be secessionists are accounted for.

Still, there is much discussion still to be had. In particular, the discussion of just war in pursuit of secession should be further discussed. As stated in the paper, there is a difference between being justified in pursuing secession and using violence to pursue independence. Anyone can advocate for seceding, but there are few cases when violence can be justified. While my theory provides the groundwork for understanding when violence is justified, it still could be further fleshed out in future papers. This discussion can be further taken into the broader attempt to reconcile just war theory with non-state actors.

Moreover, while some may disregard this discussion as purely theoretical, the case studies illustrate the applicability to modern examples of secession. While there are pragmatic issues that need to be considered, countries must also consider whether to support or combat a group's secessionist claims. A framework of moral understanding can provide guidelines and boundaries for these considerations. If the international community can understand when secession is justified, it can be more consistent and clearer when arbitrating disputes. Furthermore, since my theory at its core recognizes that agreement and recognition are paramount to stability, it better permits pragmatic diplomacy to create outcomes.

Along with secession, the principle of secession I propose in this paper takes on a much larger role in determining border disputes between countries. Whether it be Kashmir, the South China Sea, Crimea, or many others, *The Secession Principle* provides a clear guideline for international arbitrators to assess the efficacy of opposing claims. In doing so, I hope this essay can add to the discussion of territorial boundaries and further establishment of norms for peacefully resolving disputes.

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